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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 ISABEL TORRES, individually

Case No.: 2:18-cv-00010-JCM-VCF

11 Plaintiff,

12 vs.

13 BODEGA LATINA CORPORATION, d/b/a
EL SUPER, a Foreign Corporation, DOES
14 1-20 and ROE BUSINESS ENTITIES 1-
20, inclusive,
15

16 Defendants.

17 **STIPULATION AND ORDER**
18 **TO EXTEND DISCOVERY PLAN DEADLINES**
(Second Request)

19 Plaintiff Isabel Torres and Defendant Bodega Latina Corporation, by and through
20 their respective counsel, and pursuant to Local Rule 26-4, stipulate to modify their
21 discovery plan as follows:

22 1. Plaintiff filed her Complaint on October 18, 2017 in the Eighth Judicial
23 District Court, Case No. A-17-763267-C. Defendant filed their Answer and Jury
24 Demand on November 9, 2017. This case was removed to the United States District
25 Court on January 3, 2018.

26 2. The parties held their F.R.C.P. 26 conference on January 10, 2018 and
27 filed their Stipulated Discovery Plan and Scheduling Order on January 16, 2018. In this
28 original plan, the parties agreed to the following dates:

STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN AND DEADLINES (SECOND REQUEST)

- PAGE 1 OF 7 -

1	Last Day to Amend Pleadings:	04/18/2018
2	Expert Disclosure Deadline:	05/18/2018
3	Interim Status Report Deadline:	05/18/2018
4	Rebuttal Expert Disclosure:	06/18/2018
5	Discovery Cut-Off:	07/17/2018
6	Dispositive Motions Deadline:	08/17/2018
7	Pre-Trial Order:	09/17/2018

8 The initial discovery plan was signed by United States Magistrate Cam
9 Ferenbach, January 17, 2018.

10 3. The Parties filed a Stipulation and Order to Extend Discovery and
11 deadlines [First Request] on April 19, 2018. In this plan, the parties agreed to the
12 following dates:

13	Last Day to Amend Pleadings:	07/17/2018
14	Expert Disclosure Deadline:	08/16/2018
15	Interim Status Report Deadline:	08/18/2018
16	Rebuttal Expert Disclosure:	09/17/2018
17	Last Day to Amend DPSO:	09/28/2018
18	Discovery Cut-Off:	10/16/2018
19	Dispositive Motions Deadline:	11/15/2018
20	Pre-Trial Order:	10/15/2018

21 The Stipulation and Order to Extend Discovery and Deadlines [First Request]
22 was signed by United States Magistrate Judge Cam Ferenbach, April 20, 2018.

23 4. In compliance with Local Rule 26-4, the parties provide the following
24 information regarding the discovery status:

25

26 (a) **Discovery Completed pursuant to Fed. R. Civ. P. 26(a):**

27 **Defendants:**

28	Initial Disclosure	01/10/2018
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1	Interrogatories to Plaintiff	01/15/2018
2	Request for Production to Plaintiff	01/15/2018
3	First Supplemental Disclosure	02/28/2018
4	Second Supplemental Disclosure	04/05/2018
5	Third Supplemental Disclosure	04/17/2018
6	Fourth Supplemental Disclosure	05/14/2018
7	Fifth Supplemental Disclosure	06/25/2018
8	Plaintiff Isabel Torres' Deposition taken	07/24/2018
9	<u>Plaintiffs:</u>	
10	Initial Disclosure	01/17/2018
11	First Supplemental Disclosure	01/26/2018
12	Second Supplemental Disclosure	01/29/2018
13	Plaintiff's Answers to Interrogatories	02/20/2018
14	Plaintiff's Responses to Request to Produce	02/20/2018
15	Third Supplemental Disclosure	02/07/2018
16	Request for Admissions to Defendant	04/02/2018
17	Interrogatories to Defendant	04/02/2018
18	Request for Production to Defendant	04/02/2018
19	Fourth Supplemental Disclosure	04/16/2018
20	Fifth Supplemental Disclosure	04/19/2018
21	Sixth Supplemental Disclosure	05/24/2018
22	Seventh Supplemental Disclosure	05/29/2018
23	Eighth Supplemental Disclosure	06/07/2018
24	Ninth Supplemental Disclosure	06/12/2018

25

26 **(b) Discovery that remains to be completed:**

- 27 • Plaintiff is scheduled to take the Rule 30(b)(6) deposition of Defendant's
- 28 designee on August 7, 2018.

- Defendant needs to obtain updated medical records from several of Plaintiff's medical providers regarding Plaintiff's recent treatment and complete the procurement of medical records from several providers who did not fully respond to Defendant's prior requests.
- Defendant plans to schedule an Independent Medical Examination of Plaintiff once Plaintiff's updated/additional medical records are procured.
- The parties need to designate experts and rebuttal experts and exchange reports.
- The parties need to conduct the depositions of Plaintiff's experts and Defendant's experts.

(c) Reasons why discovery was not completed:

Much discovery has been completed since the first request for the extension of the DPSO deadlines. However, the discovery has not been completed for several reasons.

First, Plaintiff's condition is not resolved and her treatment is ongoing. On January 25, 2018, Plaintiff's spine surgeon recommended Plaintiff as a candidate for Anterior Cervical Discectomy and Fusion. Plaintiff added future medical expenses for the Anterior Cervical Discectomy and Fusion to her Computation of Damages on February 5, 2018. Plaintiff provided Dr. Muir's records on April 23, 2018. Plaintiff has not undergone her cervical surgery but Plaintiff's counsel stated at Plaintiff's deposition of July 24, 2018 that that was going to go forward.

Since the April extension, Plaintiff has undergone significant care and is scheduled for more in the future. Plaintiff has undergone multiple lumbar procedures. She had procedures on May 14, 2018, May 31, 2018, June, 2018. The June records are not yet available. Plaintiff is scheduled to undergo another lumbar spinal rhizotomy in August 2018. She remains a candidate for Anterior Cervical Discectomy and Fusion,

1 which she still plans to undergo. Plaintiff estimates in her Computation of Damages
2 that that care will cost almost \$7,000,000.

3 Second, discovery has not been completed because Plaintiff's ongoing care
4 charges us to obtain many updated records. Defendant has obtained a significant
5 amount of records (nearly 1000 pages), and additionally received Plaintiff's Fifth through
6 Ninth Supplemental 26.1 Disclosures. The records concerning procedures Plaintiff
7 underwent in May 2018 were only partially, and recently, disclosed in Plaintiff's Ninth
8 Supplemental Disclosure (served on 6/12/18).

9 Although approximately 85% of Plaintiff's medical records had been received
10 prior to Plaintiff recent treatment, Defendant will need to obtain updated medical records
11 regarding Plaintiff's interim medical treatment and is still awaiting receipt of medical
12 records from a few the prior medical providers.

13 Defendant learned during the deposition of Plaintiff recently taken on July 24,
14 2018, that Plaintiff is a candidate for lumbar spine surgery as well. She is slated to
15 undergo another lumbar rhizotomy procedure in August 2018 and that she is seeing a
16 new surgeon. (In addition to the cervical spine surgery previously recommended by Dr.
17 Muir). However, Plaintiff was unable to recollect the name of the new surgeon during
18 her deposition, which will be the cause of additional delay in obtaining the necessary
19 records. It is anticipated that the process of procuring the records from the various
20 medical providers who have provided care to Plaintiff since May 2018, will take at least
21 six to eight weeks.

22 Third, review of Plaintiff's medical records obtained since the extension of the
23 discovery deadlines has enlightened Defendant as to other injury incidents that Plaintiff
24 has been involved, necessitating the procurement of Plaintiff's medical records from
25 additional medical providers that were not previously known, until very recently.

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1 Fourth, Defendant sees the need for a Rule 35 examination of Plaintiff, which will
2 be most effectively done when all the medical records are gathered and Plaintiff's
3 treatment is complete, or at least her condition has become stable. Once all of the
4 known medical providers' records are obtained, Defendant will then be able to better
5 determine which medical specialty would best be suited to conduct a Rule 35
6 examination of Plaintiff. Dates that physicians have available to perform such an
7 examination in Las Vegas are limited and are not available until at least mid-September,
8 2018.

9
10 **(d) Proposed Schedule:**

11 The parties propose a 90-day extension to complete the remaining discovery.
12 Those dates will be:

13 Last Day to Amend Pleadings: 07/17/2018 (expired)

14 Expert Disclosure Deadline: 11/14/2018

15 Interim Status Report Deadline: 11/14/2018

16 Rebuttal Expert Disclosure: 12/17/2018

17 Last Day to Amend DPSO: 12/27/2018

18 Discovery Cut-Off: 01/14/2019

19 Dispositive Motions Deadline: 02/13/2019

20 Pre-Trial Order: 03/18/2019

21 (If dispositive motions are filed, the deadline
22 for the filing of the joint pre-trial order will be
suspended until 30 days after decision on the
dispositive motions or further court order.)

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CONCLUSION

For the foregoing reasons, the parties herein respectfully request this Honorable Court to enter its Order to Extend Discovery Plan and Deadlines.

Dated this 26th day of July 2018.

Dated this 26th day of July 2018.

RICHARD HARRIS LAW FIRM

BAUMAN LOEWE WITT & MAXWELL

/s/ Elaine H. Marzola

/s/ Michael C. Mills

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Counsel for Defendant,
Bodega Latina Corporation

ORDER

IT IS SO ORDERED.



UNITED STATES DISTRICT COURT JUDGE,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

DATED: 7/26/18